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EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS: NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS

Written statement submitted by North-South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council Resolution 1996/31.

[11 January 1999]

GE.99-10726 (EXT)

Human rights protection mechanisms and the unequal power of States

1. The debate on human protection mechanisms most often overlooks one major issue: the unequal power of States. While the fundamental principle of the sovereign equality of States lies at the heart of the United Nations Charter, peoples are subject to profoundly unequal treatment and unwarranted discrimination.

2. Human rights, especially civil and political rights, have thus been orchestrated to serve certain interests rather than others, and the global result in terms of promotion of human rights is far from convincing.

3. The same is true of all the mechanisms put in place to guarantee the protection of human rights. It would seem, first and foremost, that the quest for mechanisms that make for the most effective human rights have been developed solely for civil and political rights and in the wake of the international political strategy of a handful of major powers, in the name of universality, which, paradoxically, is not extended to incontestably universal rights such as the fundamental rights to health, food, housing and clean drinking water.

4. It would seem, therefore, that the mechanisms established for civil and political rights are often corrupted or, at the very least, always disrupted by the resources at the disposal of the major powers, which other States, stateless people and independent NGOs do not possess. Thus, the workings of the International Criminal Court founded in Rome in 1988 are likely to be arbitrarily paralyzed at the whim of the major powers that are members of the Security Council.

5. The issue of the immunity of heads of State raises a parallel question: not only is the juridical system not adapted to the requirements for sanctioning dictators (for example, the Spanish Judiciary's interpretations of the texts in the Pinochet affair violates the fundamental principles of criminal law by which individual rights are protected), but risks being arbitrarily interpreted by those powers with the means to do so. There is actually no objective, neutral authority to interpret the rules and facts and the legitimate struggle against impunity risks degenerating into a banal witch hunt of political enemies.

6. The Commission on Human Rights must take account of the fundamental provisions of the United Nations Charter still in force (equal sovereignty, etc.) and seek ways of linking them to the international human rights protection agencies. Without this coherence, the work of the Commission on Human Rights might well contribute inadvertently to the growing obsolescence of international law, confused interpretation and the reinforcement of the arbitrary influence of the major powers.